

Message Text

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PAGE 01 KUWAIT 04176 271457Z
ACTION NEA-10

INFO OCT-01 ISO-00 L-03 AID-05 CIAE-00 COME-00 EB-08
FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02
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FOR NEA/ARP TWINAM FROM AMBASSADOR

E.O. 11652: N/A
TAGS: BEXP, XF
SUBJECT: ARAB BOYCOTT: KUWAIT BANK LETTER OF CREDIT

REF: (A) STATE 172875, (B) KUWAIT 3989, (C) STATE 156562,
(D) KUWAIT 3727

SUMMARY: NEED ADVICE SOONEST ON WHETHER REVISED L/C LANGUAGE
PROPOSED BY LOCAL BANK TO KUWAIT CENTRAL BANK AND BOYCOTT
OFFICE EXPECTDD TO BE CONSIDERED ACCEPTABLE UNDER NEW
U.S. ANTIBOYCOTT LAW. IF SO WE MAY BE ABLE TO SOLVE BOYCOTT
LETTER OF CREDIT PROBLEM IN KUWAIT. END SUMMARY

1. AS YOU KNOW, THE KUWAITIS HAVE ALWAYS HAD A REPUTATION
FOR BEING DIFFICULT ABOUT ENFORCEMENT OF THE ARAB BOYCOTT.
SO FAR, HOWEVER, WE HAVE MADE GOOD PROGRESS IN EXPLAIN-
ING THE NEW LAW AND GETTING THE KUWAITIS TO MOVE TOWARDS
ELIMINATING LANGUAGE WHICH WOULD NOT CONFORM TO IT. TERMS
OF BANK OF KUWAIT AND THE MIDDLE EAST (BKME) LETTER OF
CREDIT HAD INCLUDED THE FOLLOWING OBJECTIONABLE NEGATIVE
CERTIFICATION LANGUAGE: "ADDITIONAL DOCUMENTS REQUIRED...
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PAGE 02 KUWAIT 04176 271457Z

"(B) BENEFICIARIES CERTIFICATE CERTIFYING THAT THE PRODUCING
OR SUPPLYING COMPANY IS NEITHER BANNED BY THE ISRAELI BOY-
COTT OFFICE NOR IS A SUBSIDIARY NOR A SISTER COMPANY OF NOR
AFFILIATED TO A BANNED COMPANY." BKME HAS CHANGED
THIS LANGUAGE TO READ "(B) CERTIFICATE OF ORIGIN SIGNED BY
THE CHAMBER OF COMMERCE &/OR OFFICIAL TRADE &/OR INDUSTRIES

ASSOCIATION BEARING THEIR OFFICIAL SEAL AND STATING:

(I) THE COUNTRY OF ORIGIN OF THE GOODS. (IN THE EVENT OF SHIPMENT OF GOODS CONTAINING FOREIGN MATERIALS THE COUNTRY OF ORIGIN OF THESE FOREIGN MATERIALS MUST BE SHOWN ON THE CERTIFICATE OF ORIGIN). (II) NAME OF MANUFACTURERS/PROCESSORS FOR MANUFACTURED OR PROCESSED GOODS." BKME HAS SUBMITTED COPY OF NEW LANGUAGE TO KUWAIT BOYCOTT OFFICE AND DIRECTOR OF OFFICE HAS INITIALED IT, INDICATING ACCEPTANCE.

2. ON JULY 27 ACTING CENTRAL BANK GOVERNOR KHALED ATEEQI TOLD US THAT HE WAS PREPARED A) TO ACCEPT THE LANGUAGE OF THE BKME'S NEW LETTER OF CREDIT, B) FORMALLY SUBMIT THIS LANGUAGE TO THE KUWAIT BOYCOTT OFFICE FOR APPROVAL, AND C) ONCE THIS APPROVAL IS OBTAINED, INSTRUCT THE LOCAL BANKS TO USE THIS LANGUAGE AND NO OTHER FOR THEIR LETTERS OF CREDIT. ALTHOUGH THERE HAS BEEN SOME CONFUSION BECAUSE OF EARLIER BOYCOTT OFFICE DIRECTIVES IMPLYING NEED FOR USE OF NEGATIVE LANGUAGE IN LETTERS OF CREDIT, WE HAVE REASON TO BELIEVE THAT SUCH LANGUAGE IS NO LONGER NECESSARY. PROSPECTS ARE BRIGHT THAT BOYCOTT OFFICE WOULD APPROVE NEW BKME L/C AS STANDARD IF FORMALLY REQUESTED BY THE CENTRAL BANK.

3. ATEEQI UNDERSTANDS THE LOGIC OF THE NEED TO ELIMINATE LIMITED OFFICIAL USE

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PAGE 03 KUWAIT 04176 271457Z

NEGATIVE LANGUAGE FROM LETTERS OF CREDIT, BUT HE STILL FEELS THAT, IN APPROVING THIS, HE IS OPENING HIMSELF TO CRITICISM AS "GIVING IN" TO "AMERICAN PRESSURE". HE IS WILLING TO ACCEPT THE LANGUAGE CHANGES BUT HE WANTS TO BE ABSOLUTELY CERTAIN THAT THE LANGUAGE HE FORWARDS AS STANDARD TO THE BOYCOTT OFFICE IS ACCEPTABLE UNDER THE NEW U.S. LAW, SINCE HE IS NOT ABOUT TO SUBMIT LANGUAGE, CIRCULARIZE IT, AND THEN HAVE TO GO BACK LATER WITH FURTHER CHANGES.

4. IN RESPONSE REF A, WE HAVE GIVEN VISITING OFFICER NEA/EX/H.R. MALPASS COPIES OF THE REVISED BKME LETTER OF CREDIT AND INSTRUCTIONS TO CARRY TO WASHINGTON. HE WILL ARRIVE IN WASHINGTON JULY 27 AND GIVE THEM THAT DAY TO NEA/ARP. WE HAVE NOW LEARNED THAT THESE INSTRUCTIONS FORM AN INTEGRAL PART OF THE LETTER OF CREDIT AS "OTHER TERMS". THESE "OTHER TERMS" STILL INCLUDE THE FOLLOWING ANNOUNCEMENT:

"THE FOLLOWING IS STRICTLY PROHIBITED: SHIPMENT OF GOODS OF THE FOLLOWING ORIGIN: ISRAEL, SOUTH AFRICA AND RHODESIA." BEFORE ATEEQI CAN GO AHEAD WITH SUBMITTING THE REVISED BKME L/C TO THE BOYCOTT OFFICE WE NEED TO KNOW WHETHER

THIS LANGUAGE IS ACCEPTABLE. PLEASE ADVISE SOONEST.

5. COMMENT: IT IS SUMMER, MANY KUWAITIS ARE AWAY, THE BOYCOTT OFFICE DIRECTOR AND ACTING CENTRAL BANK GOVERNOR ARE AMENABLE. NOW IS THE TIME TO SOLVE THE BOYCOTT LANGUAGE PROBLEM IN KUWAIT LETTERS OF CREDIT. THE CHANGE TO POSITIVE LANGUAGE IS OF COURSE LOGICAL, BUT IN THIS TOWN OF 250,000 PALESTINIANS, MANY OF THEM WORKING IN BANKS, ELIMINATION OF ALL MENTION OF THE BOYCOTT FROM LETTERS OF CREDIT IS BOUND TO BE NOTICED. THE CENTRAL BANK AND BOYCOTT OFFICE SEEM WILLING TO TAKE THIS POLITICAL RISK NOW. LATER THIS YEAR, IF, FOR SOME REASON (SUCH AS SET-BACKS IN MIDDLE EAST PEACE EFFORTS) THE ATMOSPHERE HERE CHANGED, THEY MIGHT REFUSE TO MAKE LIMITED OFFICIAL USE

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PAGE 04 KUWAIT 04176 271457Z

ANY CHANGES, DESPITE THEIR COOPERATIVE ATTITUDE UP TO NOW. WE HOPE THEREFORE THAT IT WILL BE POSSIBLE FOR US TO GIVE A QUICK GO-AHEAD TO THE REVISED BKME LANGUAGE, INCLUDING THAT IN PARA 4 ABOVE. IT WOULD PROBABLY BE DIFFICULT FOR US TO GET THE LANGUAGE MENTIONED IN PARA 4 REMOVED FROM THE L/C, SINCE THE SENTENCE IS MERELY A STATEMENT OF FACT, I.E., THE POLICY OF A SOVEREIGN STATE. ALTHOUGH THIS IS A MATTER FOR THE LAWYERS, IT STRIKES US THAT, AS A STATEMENT OF POLICY OF A SOVEREIGN STATE, IT WOULD BE ALLOWABLE UNDER SECTION 4A (A) (2) (A) OF H.R. 5840.

6. ACTION REQUESTED: (1) RESPONSE TO QUERY ABOVE;

(2) IF POSSIBLE, CLARIFICATION ON WHETHER USE OF REVISED BKME L/C WITH LANGUAGE ABOVE WOULD BE REPORTABLE UNDER NEW EEA REGULATIONS (PARA 3 REF A), AND IF SO, PRECISELY WHAT THIS ENTAILS.
MAESTRONE

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